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Promotion and protection of the right to freedom of opinion and expression

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue, submitted in accordance with Human Rights Council resolution 16/4.

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Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Summary

The focus of the present report is on hate speech and incitement to hatred, given the continuing challenge faced in identifying ways to reconcile the need to protect and promote the right to freedom of opinion and expression, on the one hand, and to combat discrimination and incitement to hatred, on the other. The Special Rapporteur presents an overview of the phenomenon, the relevant international norms and standards, including distinctions between types of hate speech, and examples of domestic legislation that contravene international norms and standards. While noting the importance of clear laws that conform to international norms and principles to combat hate speech, the Special Rapporteur underscores the importance of non-legal measures to tackle the root causes of hatred and intolerance. The report concludes with a set of recommendations to combat hate speech effectively without unduly curtailing the right to freedom of opinion and expression. The Special Rapporteur also provides a brief account of his activities since his report to the Human Rights Council at its twentieth session (A/HRC/20/17).

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I. Introduction

1. The present report is submitted to the General Assembly by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, pursuant to Human Rights Council resolution 16/4.

2. In his previous report to the General Assembly (A/66/290), the Special Rapporteur underscored the differences between illegal types of expression, which States are required to prohibit under international law, such as direct and public incitement to commit genocide, and those that are considered harmful, offensive, objectionable or undesirable, but which States are neither required to prohibit nor criminalize. He emphasized the need to distinguish between three types of expression: expression that constitutes an offence under international law and can be prosecuted criminally; expression that is not criminally punishable but may justify a restriction and a civil suit; and expression that does not give rise to criminal or civil sanctions, but still raises concerns in terms of tolerance, civility and respect for others. He underlined that those different categories posed different issues of principle and called for different legal and policy responses. In that context, he briefly examined the issue of hate speech and advocacy of national, racial or religious hatred that constituted incitement to discrimination, hostility or violence.

3. In the present report, the Special Rapporteur aims to expand on the issue of hate speech, given the continuing challenge faced in identifying ways to reconcile the need to protect and promote the right to freedom of opinion and expression, on the one hand, and to combat intolerance, discrimination and incitement to hatred, on the other. Indeed, the discussions at the four expert regional workshops on the prohibition of incitement to hatred, organized by the Office of the United Nations High Commissioner for Human Rights (OHCHR), revealed significant differences in legislative patterns, judicial practices and policies on incitement and advocacy of hatred, both between and within regions.[1] Such diverse responses to the phenomenon of hate speech are symptomatic of the unclear normative environment surrounding the issue. The Special Rapporteur thus hopes to move the debate forward by underlining basic principles of international human rights law, identifying elements to be used in determining what kinds of expression would meet the threshold of "advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence" and reminding the international community that the right to freedom of opinion and expression and the prohibition of incitement to hatred are not simply compatible but are in fact mutually supportive, given that open public debate of ideas, in addition to interfaith and intercultural dialogue, can be the best antidote to hate and intolerance.

[1] The reports of the four regional workshops are available from www.ohchr.org/EN/Issues/FreedomOpinion/Articles19-20/Pages/ExpertsPapers.aspx.

II. Activities of the Special Rapporteur

A. Participation in meetings and seminars[2]

4. The Special Rapporteur, with the support of local organizations, organized regional expert consultations to gather information and input for the present report. They were held in Singapore, on 11 and 12 January 2012; Florence, Italy, on 26 and 27 March 2012; Rome, from 28 to 30 March; Colombia, on 10 and 11 April; and Panama, on 12 and 13 April.

5. On 18 and 19 April, the Special Rapporteur participated in a meeting in Stockholm on the theme "Internet freedom for global development", organized by the Ministry of Foreign Affairs of Sweden.

6. On 21 and 22 April, the Special Rapporteur participated as a panellist in a meeting of the Inter-American Press Association held in Cadiz, Spain. On 23 and 24 April, he participated as a panellist in a session on the rule of law and the Internet during the Global INET 2012 event organized by the Internet Society in Geneva.

7. From 2 to 4 May, the Special Rapporteur participated as a panellist at the World Press Freedom Day Conference organized in Tunis by the United Nations Educational, Scientific and Cultural Organization (UNESCO), the Special Rapporteur on Freedom of Expression and Access to Information in Africa and the University of Pretoria. On 6 May, he participated in a meeting on decriminalization of expression, held in Tunis and organized by the same entities.

8. On 8 and 9 May, the Special Rapporteur participated as a keynote speaker at an international conference on freedom of expression online, organized by the Universidad del Rosario and George Washington University in Bogota.

9. On 21 and 22 May, he participated as a keynote speaker at the tenth Austin Forum on Journalism in the Americas, on the theme "Safety and protection for journalists, bloggers and citizen journalists", organized by the Knight Center for Journalism in the Americas and the Latin America and media programmes of Open Society Foundations in Texas, United States of America.

10. From 29 May to 5 June, the Special Rapporteur taught a class on freedom of expression at American University in Washington, D.C. From 6 to 8 June, he participated in a seminar on human rights defenders and peaceful protests in Oslo, organized by the International Service for Human Rights and the ministries of foreign affairs of Norway and Switzerland.

11. On 18 June, the Special Rapporteur participated as a panellist in the Dublin Conference on Internet Freedom, organized by the Department of Foreign Affairs and Trade of Ireland. On 19 June, he presented his annual report to the Human Rights Council, in which he considered the protection of journalists and media freedom (A/HRC/20/17).

[2] Further details of the meetings and seminars in which the Special Rapporteur participated before March 2012 can be found in his report to the Human Rights Council at its twentieth session (A/HRC/20/17).

12. From 23 to 26 June, the Special Rapporteur participated as a panellist at the International Press Institute World Congress in an event entitled "Media in a Challenging World: A 360 Degree Perspective", organized by the International Press Institute in Port of Spain.

13. From 9 to 11 July, he participated as a panellist at the Mapping Digital Media Advocacy Summit, organized by Open Society Foundations in Istanbul, Turkey.

B. Press releases issued[3]

14. On 4 April, the Special Rapporteur issued a press release in which he expressed his concern regarding the sentencing of Luis Agustín González, the editor of *Cundinamarca Democrática*, a Colombian newspaper, to 18 months' imprisonment and a fine of approximately $5,000 for libel in relation to an editorial published in 2008 in which he questioned the candidacy of a local politician, Leonor Serrano de Camargo. The Special Rapporteur underscored that defamation should be decriminalized and not be applied in cases of criticism of public officials.

15. On 30 May, he and the Special Rapporteur on the rights to freedom of peaceful assembly and of association issued a joint press release in which they expressed concern over demonstrations in Quebec, Canada, on 24 May, which reportedly involved serious acts of violence and the detention of up to 700 protesters. They also urged the federal and provincial governments of Canada and Quebec to fully respect the rights to freedom of peaceful assembly, expression and association of students affected by two recently adopted pieces of legislation (Act No. 78 of the National Assembly of Quebec, to enable students to receive instruction from the post-secondary institutions that they attend, and the regulation modifying the regulation of the City of Montreal on preventing breaches of peace, security and public order, and on the use of public domain). They underlined that they had been in contact with the Government, which had promised to clarify the issues of concern.

16. On 7 June, the Special Rapporteur, the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the rights to freedom of peaceful assembly and of association issued a press release in which they called upon the Government of Malaysia and other parties involved to ensure the protection of non-governmental organizations campaigning for reform of the electoral process in the lead-up to the general election scheduled to be held in April 2013. In particular, they urged the authorities to protect Ambiga Sreenevasan and other members of the Coalition for Clean and Fair Elections (Bersih) from acts of harassment and intimidation.

17. On 12 July, they also issued a press release in which they called for the rejection of a draft law on non-commercial organizations in the Russian Federation. They noted that, if approved, the draft law would brand all foreign-funded non-commercial organizations that engaged in political activities as "foreign agents" and would impose harsh penalties for non-compliance with new regulations.

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[3] The press releases are available from www.ohchr.org/en/NewsEvents/Pages/NewsSearch.aspx?NTID=PRS&MID=SR_Freedom_Expressio. Those issued before March 2012 are included in the report of the Special Rapporteur to the Human Rights Council (A/HRC/20/17).

18. On 21 June, the Special Rapporteur and the Special Rapporteur on extrajudicial, summary or arbitrary executions issued a joint press release on the occasion of the presentation of their reports on the protection of journalists to the Human Rights Council. They underscored that journalists should not be silenced, intimidated, imprisoned, tortured or killed for exposing inconvenient truths, making key recommendations to ensure journalists' safety and to combat impunity for crimes committed against them.

19. On 25 June, the Special Rapporteur, the Representative on Freedom of the Media of the Organization for Security and Cooperation in Europe, the Special Rapporteur on Freedom of Expression of the Organization of American States and the Special Rapporteur on Freedom of Expression and Access to Information of the African Commission on Human and People's Rights issued a joint declaration on crimes against freedom of expression.[4] The joint declaration contains six sections: general principles; obligations to prevent and prohibit; obligation to protect; independent, speedy and effective investigations; redress for victims; and role of other stakeholders.

C. Country visits

1. Visits carried out in 2011 and 2012

20. The Special Rapporteur undertook a visit to Algeria from 10 to 17 April 2011 and to Israel and the occupied Palestinian territory from 6 to 17 December 2011. His main findings and recommendations can be found in documents A/HRC/20/17/Add.1 and Add.2, respectively.

21. The Special Rapporteur undertook a visit to Honduras from 7 to 14 August 2012. His preliminary findings are available in the end-of-visit press statement.[5] His full report will be submitted to the Human Rights Council in 2013.

2. Upcoming visits

22. Following invitations received from the Governments of Pakistan and Indonesia, on 7 February and 27 April, respectively, the Special Rapporteur is confirming the dates of his visits to those countries.

3. Pending requests

23. As at the time of submission of the present report, the following visit requests from the Special Rapporteur were pending: Ecuador (most recently requested in February 2012), the Islamic Republic of Iran (February 2010), Italy (2009), Sri Lanka (June 2009), Thailand (2012), Tunisia (2009), Uganda (May 2011) and Venezuela (Bolivarian Republic of) (2003 and 2009).

[4] Available from www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=12384&LangID=E.

[5] Available, in Spanish only, from www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12433&LangID=E.

III. Incitement to hatred

A. Overview

24. With the increasing speed at which news and information circulate around the world through the mass media and the Internet, manifestations of hate speech have become increasingly visible. Moreover, in the context of rising immigration flows and population movements, declining domestic economies and the emergence of terrorism as a crucial political challenge, there has been a growing tendency to stigmatize specific groups and communities. This has been compounded by flawed national security and anti-terrorism laws and policies, such as racial profiling, demagogic statements by opportunistic politicians and irresponsible reporting by the mass media.

25. Regrettably, instances of incitement to hatred continue to be found in all regions, as highlighted in the joint paper submitted to the regional expert workshops on the prohibition of incitement to national, racial or religious hatred by the Special Rapporteur, the Special Rapporteur on freedom of religion or belief and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance.[6]

26. In Europe, there have been instances of incitement to racial hatred against Roma; acts of violence perpetrated by neo-Nazi groups against non-European minorities; violence in several countries following the publication of cartoons featuring the Prophet Muhammad by the *Jyllands-Posten* newspaper in Denmark; and the release of an online film, *Fitna*, by a member of the parliament of the Netherlands, in which Muslims were associated exclusively with violence and terrorism.[7]

27. In Africa, there have been violent riots (for example, in Kenya, caused by alleged election-rigging and fuelled by tribal tension, and in Nigeria, on the basis of tribal tensions), leading to the deaths of several thousand people; attacks by Muslim villagers against Coptic Christians in Egypt; and various forms of incitement to violence and hatred on the basis of sexual orientation by politicians, the media and religious leaders in Uganda, as epitomized by the tragic killing of David Kato, whose name, photograph and description had been published by the *Sunday Pepper* newspaper in what it described as a "killer dossier".[8]

28. Asia and the Middle East have seen killings of presidents of the Ahmadiyya community in Pakistan following a television broadcast during which two maulanas stated that the Ahmadiyya community was deserving of death; incitement by a Government-appointed imam in Saudi Arabia to eliminate all Shia believers in the world; incitement to and acts of violence against the Sufi community in Sri Lanka; increased radicalization and serious instances of incitement to racism in Israel against the Arab population, in addition to acts of violence by Jewish settlers against

[6] Available from www.ohchr.org/EN/Issues/FreedomOpinion/Articles19-20/Pages/ExpertsPapers.aspx.

[7] See www.ohchr.org/Documents/Issues/Expression/ICCPR/Vienna/CRP3Joint_SRSubmission_for_Vienna.pdf.

[8] See www.ohchr.org/Documents/Issues/Expression/ICCPR/Nairobi/JointSRSubmissionNairobiWorkshop.pdf.

Muslims; and incitement to religious hatred against Jews in the occupied Palestinian territory.[9]

29. In the Americas, there have been instances of incitement to racial and religious hatred and manifestations of religious intolerance. For example, in the Bolivarian Republic of Venezuela, there has been violence against members of the Catholic and Jewish communities, while in the United States, there have been instances of religious hatred or intolerance towards Islam, including plans by members of a Floridian church, the Dove World Outreach Center, to burn copies of the Koran.[10]

30. While politicians and the media often play a central role in fostering hate speech offline, the ease with which anyone can post comments on the Internet, and that this can be done anonymously, have further helped hate speech to spread. In one recent example, when a Canadian-American campaigner for women's rights launched an online fundraising campaign for a series of short videos that would examine gender prejudices and the use of violence in video games, she was threatened with violence, death, sexual assault and rape, and an online interactive game was launched in which players were invited to beat her "black and blue".[11] In Maldives, a blogger and human rights campaigner advocating religious freedom was forced to flee the country after being subjected to an online hate campaign in the social media and having his throat slit.[12] In addition, radical right-wing, xenophobic or extremist groups have used the Internet to spread messages of hate.

31. The growing number of expressions of hate, incitement to violence, discrimination and hostility in the mass media and on the Internet serves as a reminder that the struggle against intolerance is both an urgent and permanent task. In this context, the question of when and under what circumstances the right to freedom of expression can be legitimately limited has resurfaced with renewed urgency and concern.

32. Many of the efforts that Governments are currently making to combat hate speech are, however, misguided. These include requests by Governments to intermediaries to screen and remove user content, registration requirements to identify users' real names and arbitrary blocking of websites. In addition, vaguely worded and ambiguous laws with disproportionate sanctions are frequently used to silence criticism and legitimate political expression, as highlighted in section II.C. While laws prohibiting incitement to hatred in accordance with international human rights law are necessary and required to tackle the phenomenon of hate speech, the human sentiment of hatred cannot be eliminated by legal prohibition alone, and the deterrent effect of such laws is not absolute, given that radical perpetrators often seek prosecution as a means to obtain access to the mainstream media to promote their ideas. Moreover, when an attempt to prosecute fails, for example where some forms of hate speech do not meet the threshold of incitement to violence, hostility or

[9] See www.ohchr.org/Documents/Issues/Expression/ICCPR/Bangkok/SRSubmissionBangkokWorkshop.pdf.

[10] See www.ohchr.org/Documents/Issues/Expression/ICCPR/Santiago/JointSRSubmissionSantiago.pdf.

[11] Helen Lewis, "This is what online harassment looks like", *New Statesman*, 6 July 2012. Available from www.newstatesman.com/blogs/internet/2012/07/what-online-harassment-looks.

[12] Amnesty International, "Maldives: human rights campaigner attacked, injured: Ismail Rasheed", 15 June 2012. Available from www.amnesty.org/en/library/asset/ASA29/003/2012/en/2d510e96-456f-4d5c-af80-3b324dbb1595/asa290032012en.html.

discrimination (such as bullying and offensive speech that do not incite any acts), there is a risk that that failure would be used as proof of endorsement of the speech, even though such speech merits condemnation. Furthermore, with regard to hate speech on the Internet, both the sheer volume of content posted every day and the cross-boundary nature of the medium considerably complicate effective implementation of the law.

33. The need to go beyond legal measures to combat hate speech is particularly acute in the light of the increasingly transnational nature of many hate speech incidents and the inability of domestic legal systems to provide adequate responses and suitable remedies. In this regard, the media and Governments have crucial roles to play in preventing the escalation of violence and discrimination, as examined in section IV.

B. International norms and standards

34. The principle of equality of all human beings and the right to be free from discrimination is at the heart of human rights, as reflected in article 1 of the Universal Declaration of Human Rights, which asserts that all human beings are born free and equal in dignity and rights. All human beings are thus entitled to the same enjoyment of all rights, without discrimination of any kind, including on the basis of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or any other status, as affirmed in article 2 of the Universal Declaration of Human Rights. The Human Rights Committee has found that sexual orientation is included in this scope.[13]

35. The right to freedom of opinion and expression is guaranteed under article 19 of both the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, which affirm that everyone has the right to hold opinions without interference and to seek, receive and impart information and ideas of all kinds through any media and regardless of frontiers.

36. The Special Rapporteur has consistently underlined the importance of the right to freedom of opinion and expression, not only as a right that should be guaranteed to all, including individuals belonging to marginalized groups, but also as a means to claim and enjoy all other rights. Indeed, it is a fundamental right that safeguards the exercise of all other rights and is a critical foundation of democracy, which depends on the free flow of diverse sources of information and ideas. The Constitution of UNESCO also affirms that peace can be promoted by facilitating the free flow of ideas and understanding among peoples of the world. Moreover, freedom of expression is essential to creating an environment conducive to critical discussions of religious and racial issues and also to promoting understanding and tolerance by deconstructing negative stereotypes. As the Special Rapporteur has previously emphasized, for the right to freedom of thought, conscience and religion to be fully realized, robust examination and criticism of religious doctrines and

[13] Its jurisprudence in this regard includes: CCPR/C/KWT/CO/2, CCPR/C/TGO/CO/4, CCPR/C/JPN/CO/5, CCPR/C/JAM/CO/3, CCPR/C/USA/CO/3/Rev.1, CCPR/CO/78/SLV, CCPR/CO/81/NAM, CCPR/C/CO/IRN/CO/3, CCPR/C/MNG/CO/5, CCPR/C/MEX/CO/5, CCPR/C/MDA/CO/2, CCPR/C/ETH/CO/1, CCPR/C/CMR/CO/4, CCPR/CO/83/GRC, CCPR/C/POL/CO/6, CCPR/C/79/Add.119, CCPR/C/RUS/CO/6, CCPR/C/UZB/CO/3, CCPR/CO/82/POL, CCPR/CO/70/TTO and CCPR/C/CHL/CO/5.

practices — even in a harsh manner — must also be allowed.[6] As with all human rights, however, the exercise of the right to freedom of expression should not be aimed at the violation of any of the rights and freedoms of others, including the right to equality and non-discrimination.

37. In particular, the rights of others are undermined when deep-rooted hatred is manifested and expressed under certain circumstances. International human rights law therefore recognizes that the right to freedom of expression can indeed be restricted where it presents a serious danger for others and for their enjoyment of human rights. Indeed, article 19 (3) of the International Covenant on Civil and Political Rights stipulates that the exercise of the right to freedom of expression carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but only such as are provided by law and are necessary for respect of the rights or reputations of others and for the protection of national security or of public order (*ordre public*), or of public health or morals.

38. Moreover, article 20 (2) of the Covenant explicitly provides that any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence is to be prohibited by law. This explicit language distinguishes such acts of advocacy from other acts that may be subject to restrictions under article 19 (3).

39. Hate speech on the basis of racial or ethnic origin is further prohibited under article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination, which stipulates that States parties:

> (a) Shall declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof;
>
> (b) Shall declare illegal and prohibit organizations, and also organized and all other propaganda activities, which promote and incite racial discrimination, and shall recognize participation in such organizations or activities as an offence punishable by law;
>
> (c) Shall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination.

40. Furthermore, article III (c) of the Convention on the Prevention and Punishment of the Crime of Genocide provides that direct and public incitement to commit genocide is to be punishable as a criminal offence.

41. The Special Rapporteur wishes to underscore that any restriction imposed on the right to freedom of expression, on the basis of any of the above-mentioned instruments, must comply with the three-part test of limitations to the right, as stipulated in article 19 (3) of the Covenant. This means that any restriction must be:

(a) Provided by law, which is clear, unambiguous, precisely worded and accessible to everyone;

(b) Proven by the State as necessary and legitimate to protect the rights or reputation of others; national security or public order, public health or morals;

(c) Proven by the State as the least restrictive and proportionate means to achieve the purported aim.

42. In addition, any restriction imposed must be applied by a body that is independent of political, commercial or other unwarranted influences in a manner that is neither arbitrary nor discriminatory, and with adequate safeguards against abuse, including the right of access to an independent court or tribunal. Indeed, the risks that legal provisions prohibiting hate speech may be interpreted loosely and applied selectively by authorities underline the importance of having unambiguous language and of devising effective safeguards against abuses of the law.

43. With regard to the prohibition of any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence established under article 20 (2) of the Covenant, it is important to establish a clearer understanding of the terms to prevent any misapplication of the law. This formulation includes three key elements: first, only advocacy of hatred is covered; second, hatred must amount to advocacy which constitutes incitement, rather than incitement alone; and third, such incitement must lead to one of the listed results, namely discrimination, hostility or violence. As such, advocacy of hatred on the basis of national, racial or religious grounds is not an offence in itself. Such advocacy becomes an offence only when it also constitutes incitement to discrimination, hostility or violence, or when the speaker seeks to provoke reactions on the part of the audience.[14]

44. Moreover, attention is drawn to the following definitions that have been developed through consultations of experts and discussed at the OHCHR regional expert workshops on incitement:

(a) "Hatred" is a state of mind characterized as intense and irrational emotions of opprobrium, enmity and detestation towards the target group;[15]

(b) "Advocacy" is explicit, intentional, public and active support and promotion of hatred towards the target group;[15]

(c) "Incitement" refers to statements about national, racial or religious groups that create an imminent risk of discrimination, hostility or violence against persons belonging to those groups;[15]

(d) "Discrimination" is understood as any distinction, exclusion or restriction made on the basis of race, colour, descent, national or ethnic origin, nationality, gender, sexual orientation, language, religion, political or other opinion, age, economic position, property, marital status, disability, or any other status that has the effect or purpose of impairing or nullifying the recognition, enjoyment or

[14] See the contribution to the OHCHR initiative on incitement to national, racial or religious hatred by Susan Benesch, consultant to the United Nations Special Adviser on the Prevention of Genocide, 2011 (see www.ohchr.org/Documents/Issues/Expression/ICCPR/Others2011/SBenesch.doc).

[15] As defined in principle 12.1 of the Camden Principles on Freedom of Expression and Equality. Available from www.article19.org/data/files/medialibrary/1214/Camden-Principles-ENGLISH-web.pdf.

exercise, on an equal footing, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field of public life;[16]

(e) "Hostility" is a manifestation of hatred beyond a mere state of mind. As highlighted by an expert at the regional workshops on the prohibition of incitement, this concept has received scant attention in jurisprudence and requires further deliberation;[17]

(f) "Violence" is the use of physical force or power against another person, or against a group or community, which either results in, or has a high likelihood of resulting in, injury, death, psychological harm, maldevelopment or deprivation.[18]

45. The threshold of the types of expression that would fall under the provisions of article 20 (2) should be high and solid. An important contribution in determining the appropriate threshold has been made by ARTICLE 19, a non-governmental organization, which has proposed a seven-part test using the following elements:

(a) Severity of hatred, which should amount to "the most severe and deeply felt form of opprobrium", including an assessment of the severity of what is said, the harm advocated, magnitude and intensity in terms of frequency, choice of media, reach and extent;

(b) Intent of the speaker to incite discrimination, hostility or violence;

(c) Content or form of the speech, including form, style, nature of the arguments deployed in the speech, magnitude or intensity of the speech, background of the inciter and the degree to which the speech is provocative or direct. Artistic expression should be considered with reference to its artistic value and context given that individuals may use art to provoke strong feelings but without the intention of inciting violence, discrimination or hostility;

(d) Extent of the speech, in terms of its reach and the size of the audience;

(e) Likelihood or probability of harm occurring. While incitement by definition is an inchoate crime and the action advocated through incitement does not have to be committed for the speech to amount to a crime, a high degree of risk of resulting harm must be identified;

(f) Imminence of the acts called for by the speech;

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[16] Based on the grounds of non-discrimination in the jurisprudence of treaty bodies, and as provided for in article 2 of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights; article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination; article 1 of the Convention on the Elimination of All Forms of Discrimination against Women; article 1 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; and article 2 of the Convention on the Rights of Persons with Disabilities.

[17] ARTICLE 19, "Towards an interpretation of article 20 of the ICCPR: thresholds for the prohibition of incitement to hatred: work in progress", study prepared for the regional expert meeting on article 20 organized by the Office of the United Nations High Commissioner for Human Rights, held in Vienna on 8 and 9 February 2010. Available from www.ohchr.org/Documents/Issues/Expression/ICCPR/Vienna/CRP7Callamard.pdf.

[18] Adapted from the definition of violence given in Etienne G. Krug and others, eds., *World report on violence and health* (World Health Organization, Geneva, 2002). Available from http://whqlibdoc.who.int/publications/2002/9241545623_eng.pdf.

(g) Context, including consideration of the speaker or author, audience, intended harm, existence of barriers in establishing media outlets, broad and unclear restrictions on content of what may be published or broadcast; absence of criticism of Government or wide-ranging policy debates in the media and other forms of communication; and the absence of broad social condemnation of hateful statements on specific grounds when they are disseminated.[17]

46. While some of the above concepts may overlap, the Special Rapporteur considers the following elements to be essential when determining whether an expression constitutes incitement to hatred: real and imminent danger of violence resulting from the expression; intent of the speaker to incite discrimination, hostility or violence; and careful consideration by the judiciary of the context in which hatred was expressed, given that international law prohibits some forms of speech for their consequences, and not for their content as such, because what is deeply offensive in one community may not be so in another. Accordingly, any contextual assessment must include consideration of various factors, including the existence of patterns of tension between religious or racial communities, discrimination against the targeted group, the tone and content of the speech, the person inciting hatred and the means of disseminating the expression of hate. For example, a statement released by an individual to a small and restricted group of Facebook users does not carry the same weight as a statement published on a mainstream website. Similarly, artistic expression should be considered with reference to its artistic value and context, given that art may be used to provoke strong feelings without the intention of inciting violence, discrimination or hostility.[19]

47. Moreover, while States are required to prohibit by law any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence under article 20 (2) of the Covenant, there is no requirement to criminalize such expression. The Special Rapporteur underscores that only serious and extreme instances of incitement to hatred, which would cross the seven-part threshold, should be criminalized.

48. In other cases, the Special Rapporteur is of the view that States should adopt civil laws, with the application of diverse remedies, including procedural remedies (for example, access to justice and ensuring effectiveness of domestic institutions) and substantive remedies (for example, reparations that are adequate, prompt and proportionate to the gravity of the expression, which may include restoring reputation, preventing recurrence and providing financial compensation).

49. In addition, while some types of expression may raise concerns in terms of tolerance, civility and respect for others, there are instances in which neither criminal nor civil sanctions are justified. The Special Rapporteur wishes to reiterate that the right to freedom of expression includes forms of expression that are offensive, disturbing and shocking.[20] Indeed, since not all types of inflammatory, hateful or offensive speech amount to incitement, the two should not be conflated.

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[19] See, for example, the judgement of the European Court of Human Rights in *Vereinigung Bildender Künstler v. Austria*, Application No. 68354/01, 25 January 2001, para. 33.

[20] See *Handyside v. United Kingdom*, Application No. 5493/72, 7 December 1976, European Court of Human Rights.

50. In any case, the Special Rapporteur reiterates that all hate speech laws should, at the very least, conform to the following elements outlined in the 2001 joint statement on racism and the media:[21]

(a) No one should be penalized for statements that are true;

(b) No one should be penalized for the dissemination of hate speech unless it has been shown that they did so with the intention of inciting discrimination, hostility or violence;

(c) The right of journalists to decide how best to communicate information and ideas to the public should be respected, in particular when they are reporting on racism and intolerance;

(d) No one should be subject to prior censorship;

(e) Any imposition of sanctions by courts should be in strict conformity with the principle of proportionality.

C. Domestic legislation that contravenes international norms and standards

51. The Special Rapporteur remains concerned about the continuing existence and the use of flawed domestic laws that purport to combat hate speech but are in fact used to suppress critical or opposing voices. Such laws frequently carry disproportionate sanctions, such as hard labour, long prison sentences, life imprisonment or even capital punishment, for vague offences such as "inciting religious unrest" in Turkmenistan, "promoting division between religious believers and non-believers" in Viet Nam, "incitement to violation" in the Islamic Republic of Iran, "instigating hatred and disrespect against the ruling regime" in Bahrain, "inciting subversion of State power" in China, "incitement to offences that damage public tranquillity" in Myanmar, "blasphemy" in Pakistan, "inciting violence against a religious authority" in Angola, "causing national, racial or religious hate, discord and intolerance" in the former Yugoslav Republic of Macedonia (to suppress any criticism of the Macedonian Orthodox Church) and "misrepresenting events and inciting violence" in Somalia (to arrest and detain independent journalists).[22]

52. Other examples of vague and overbroad legal provisions prohibiting incitement to hatred, which can be abused to censor discussion on matters of legitimate public interest, include "contempt of heavenly religions", "fanaticism", "expression of feelings of hostility", "outraging religious feelings", "provocation of sectarian or racial division", "exciting racial hostility", "inciting unlawful acts", "all acts creating division among religions", "promoting one's own individual opinion on issues that are in disagreement among Islamic scholars", "inciting people to disputes" and "talking about religions other than Islam".[22]

53. The Special Rapporteur also reiterates his concern in relation to anti-blasphemy laws, which are inherently vague and leave the entire concept open to abuse. He wishes to underscore once again that international human rights law

[21] Available from www.osce.org/fom/40120.

[22] These and other examples can be found in the documentation available from www.ohchr.org/EN/Issues/FreedomOpinion/Articles19-20/Pages/ExpertsPapers.aspx.

protects individuals and not abstract concepts such as religion, belief systems or institutions, as also affirmed by the Human Rights Committee (CCPR/C/GC/34, para. 48). Moreover, the right to freedom of religion or belief, as enshrined in relevant international legal standards, does not include the right to have a religion or belief that is free from criticism or ridicule. Indeed, the right to freedom of expression includes the right to scrutinize, debate openly, make statements that offend, shock and disturb, and criticize belief systems, opinions and institutions, including religious ones, provided that they do not advocate hatred that incites hostility, discrimination or violence. The Special Rapporteur thus reiterates his call to all States to repeal anti-blasphemy laws and to initiate legislative and other reforms that protect the rights of individuals in accordance with international human rights standards.

54. At the international level, the Special Rapporteur welcomes the shift from the notion of "defamation of religions" to the protection of individuals against incitement to religious hatred. The Human Rights Council, for the second year, has adopted by consensus a resolution on combating intolerance, negative stereotyping and stigmatization of, and discrimination, incitement to violence and violence against, persons based on religion or belief (resolution 19/25). In that resolution, the Council condemns any advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence, whether it involves the use of print, audiovisual or electronic media or any other means. It also recognizes that open public debate of ideas, as well as interfaith and intercultural dialogue, at the local, national and international levels can be among the best protections against religious intolerance and can play a positive role in strengthening democracy and combating religious hatred, convinced that a continuing dialogue on these issues can help overcome existing perceptions. Furthermore, it notes the speech given by the Secretary-General of the Organization of the Islamic Conference at the fifteenth session of the Council and draws on his call on States to take various actions to foster a domestic environment of religious tolerance, peace and respect. Lastly, it also calls for strengthened international efforts to foster a global dialogue for the promotion of a culture of tolerance and peace at all levels, based on respect for human rights and diversity of religions and beliefs. The Special Rapporteur is pleased to note that, after several years of debate, the Council has found a way to unanimously address concerns relating to religious intolerance without referring to concepts or notions that would undermine international human rights law.

55. With regard to discussion of history, the Special Rapporteur is of the view that historical events should be open to discussion and, as stated by the Human Rights Committee, laws that penalize the expression of opinions about historical facts are incompatible with the obligations that the International Covenant on Civil and Political Rights imposes on States parties in relation to the respect for freedom of opinion and expression (CCPR/C/GC/34, para. 49). By demanding that writers, journalists and citizens give only a version of events that is approved by the Government, States are enabled to subjugate freedom of expression to official versions of events.

IV. Addressing expression of hatred and intolerance through non-legal measures

56. Laws prohibiting incitement to hatred in accordance with international human rights law are indeed necessary and required to ensure that perpetrators are punished and that victims receive effective remedies, and to prevent recurrence of such acts. Penal codes alone, however, will rarely provide the solution to the challenges of incitement to hatred in society. Accordingly, while a legal prohibition and prosecution may be of key importance in some cases, a more effective toolbox containing positive measures is also necessary to tackle the root causes and various facets of hate, including broad-based societal programmes to combat inequality and structural discrimination, in addition to creative policies and measures to promote a culture of peace and tolerance at all levels.

57. To this end, strengthening the promotion and protection of the right to freedom of opinion and expression is essential. Indeed, States have affirmed the positive role that the right to freedom of opinion and expression can play in combating racial and religious hatred, including in the Durban Declaration and Programme of Action (A/CONF.189/12 and Corr.1, paras. 90 and 147), the outcome document of the Durban Review Conference (A/CONF.211/8, paras. 54 and 58) and Human Rights Council resolutions 12/16 (paras. 9-11) and 19/25 (paras. 4 and 5). Similarly, non-legal measures to combat discrimination and intolerance have been identified in various United Nations documents, including the Declaration and Programme of Action on a Culture of Peace (General Assembly resolutions 53/243 A and 53/243 B), the Global Agenda for Dialogue among Civilizations and its Programme of Action (Assembly resolution 56/6) and the 2005 World Summit Outcome (Assembly resolution 60/1). The Special Rapporteur reminds States to implement such measures outlined in existing international documents.

A. Education and awareness-raising

58. A first essential element of any strategy to combat hate speech is prevention. To this end, it is crucial to provide education and raise awareness about human rights, tolerance and knowledge of other cultures and religions. When a State ratifies an international human rights instrument, it has the duty to raise levels of awareness of the rights contained therein among the population at large (CCPR/C/21/Rev.1/Add.13, para. 7). The school education system is a prime avenue to do so. For example, in Sweden, the Living History Forum (www.levandehistoria.se) is a public authority that produces exhibitions and teaching materials around topics of tolerance, democracy and human rights, with the Holocaust and other crimes against humanity as the starting point. Beyond such specific projects, it is crucial, however, to promote values, beliefs and attitudes that encourage children to embrace differences. Values instilled during childhood are likely to have the strongest impact on responses as adults.

59. Human rights education should not, however, be limited to schoolchildren. Strong information campaigns by public authorities or others can raise awareness about hate speech and the harm that it causes and about the continued importance of a culture of tolerance and peace and its associated ethics. In some instances, responses to offences under article 20 of the International Covenant on Civil and

Political Rights may include such campaigns to spread messages of tolerance and respect for others' rights.

60. Lastly, in several instances, it has been found that legislators and judges are unaware of international human rights treaties and the nature of State obligations, including article 20 of the Covenant. Where such lacunae exist, it is important to review the legal education system to redress the situation, including by providing training for judges on the thresholds of incitement to hatred. Law enforcement officers may also benefit from such initiatives.

B. Counter-speech and social dialogue

61. Of equal importance to education is to facilitate greater dialogue, better communication and, thus, deeper understanding. Rather than imposing new restrictions, a culture of public discourse in which one can freely and without fear of retaliation articulate and debate experiences, in addition to continually deconstruct stereotypes, is essential.

62. The first critical step is to address and redress the indirect censorship, powerlessness and/or alienation felt by many groups and individuals. For example, in many countries, women or women's groups that publicly criticize discriminatory religious tenets have frequently been the targets of severe harassment and intimidation, both by the State and by non-State actors. Explicitly or implicitly, through such actions an illusion is created that only those with the requisite authority can speak on particular issues. The resulting culture of fear hampers public debate and directly contradicts the right to freedom of opinion and expression. Governments should therefore proactively facilitate counter-speech of individuals belonging to groups that are systematically targeted by hate speech. Moreover, with the advent of the Internet, individuals no longer have to wait for the State to facilitate such processes and can take the initiative themselves. For example, Groundviews (http://groundviews.org) is a citizen journalism initiative in Sri Lanka that documents stories and opinions that the mainstream media may censor owing to fear or reprisals. By allowing voices that have been marginalized and perspectives that generally find little expression to come to the fore, such initiatives play a vital role in fostering debate and greater understanding in society.

63. At the individual level, it is also important to remember the responsibility of each individual citizen to speak out against human rights violations. Often, extreme manifestations of hatred are the work of only a small group of people or are instigated by political opportunists, yet most people fail to react or to respond. The task of combating hate speech should not, however, be left to those targeted by such speech. Because the Internet has made it possible for hate speech to proliferate much more easily, it becomes all the more important for each individual to take on the responsibility to denounce hate speech publicly.

64. A special responsibility to denounce instances of hate speech continues to rest with public officials, however. Clear, formal rejections of hate speech by high-level public officials and initiatives to engage in interreligious or intercultural dialogue play an important role in alleviating tensions and building a culture of tolerance and respect without resorting to censorship. For example, following the publication by the Danish newspaper *Jyllands-Posten* on 30 September 2005 of cartoons depicting the Prophet Muhammad in a derogatory manner, 11 ambassadors from Muslim-

majority countries requested a meeting with the Prime Minister. The request was not granted, however, meaning that an early and important opportunity to defuse tension and to prevent a spiral of violence was missed. In contrast, when Geert Wilders, a member of the parliament of the Netherlands, released his controversial online film, *Fitna*, on 27 March 2008, the Government acted swiftly to distance itself from the film and to reject the equation of Islam with violence, which was welcomed in the joint press statement issued on 28 March 2008 by the Special Rapporteur, the Special Rapporteur on freedom of religion or belief and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance.[23] Interestingly, the film attracted little controversy.

65. Public condemnation by high-level Government officials is particularly crucial because extremist groups have been attempting to hijack the freedom of expression debate and to cast themselves in the role of the ultimate defenders of free speech. Policymakers and politicians across party lines, rather than using the existence of laws to deal with the matter as an excuse to remain silent in such situations, should have the courage to systematically condemn hate speech publicly.

66. States also have a responsibility to establish a comprehensive strategy of interaction to stimulate tolerance. This can include initiatives to host interreligious platforms for cooperation and dialogue at various levels of leadership, including the local, regional and international levels. Such initiatives should aim not only to achieve greater understanding or to combat prejudices and stereotypes in public and political discourse, but also to facilitate coalition-building across diverse cultural and religious communities and incorporate conflict prevention and de-escalation strategies.

67. Lastly, States should also take appropriate disciplinary measures with regard to hate speech or incitement to hatred by public officials, as recognized in article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination. When high-level officials engage in hate speech, they undermine not only the right to non-discrimination of affected groups, but also the faith of such groups in State institutions and, thus, the quality and level of their participation in democracy.

C. Data collection and research

68. A third set of measures concerns data collection and analysis, in addition to more targeted research, in relation to freedom of expression and hate speech. This includes various forms of hate speech, the main perpetrators, where and under what circumstances hate speech occurs, who the messages reach and through which avenues, whether and which media outlets contest such messages, and in which cases and under what circumstances hate speech actually constitutes incitement in a manner that links content with action. In most countries, comprehensive data on such areas are glaringly absent. Consequently, policies and legislation are frequently based on perception. Systematic disaggregated data collection and analysis, using human-rights-sensitive methodologies, enable a better understanding of problems in a given country, the creation of better-targeted policies and the possibility of

[23] See also the special rapporteurs' communication of 14 November 2005 to the Government of the Netherlands (E/CN.4/2006/5/Add.1, paras. 110 and 116).

evaluation. For example, the aforementioned Living History Forum in Sweden carries out periodic attitude surveys to ensure that its efforts are focused where they are most needed. Data collection and analysis can also help to establish early warning mechanisms and aid in the effective enforcement of the law. International cooperation in these areas could help to increase not only comparability of data but also knowledge about the nature of hate speech that transcends boundaries. A clear distinction between expression that constitutes incitement, hate speech and merely offensive speech should be at the core of any such data-collection and analysis exercise.

69. More in-depth research in other areas would also be useful, including on the impact of existing laws and the extent to which they comply with international norms and standards and tackle the problems brought to light by data collection; jurisprudence and best practice; the relationship between incitement to racial hatred and to religious hatred; and the abuse of hate speech legislation to suppress dissent.

D. Media and ethics

70. While the swiftly evolving electronic media landscape has led to a dramatic increase in the volume of information available, the quality of information has not always kept pace. An objective, ethical and informative media therefore remains essential to informing society about contentious societal issues in a balanced manner and to preventing individuals from falling prey to promises of easy solutions and extremist rhetoric. Caution exercised by the media is also essential to preventing the drawing of any unnecessary attention to acts of an extremist individual that can spark violence. For example, when an obscure pastor in the United States threatened to burn the Koran in September 2010, the media played a negative role in unnecessarily drawing attention to the story. Had greater care been taken in reporting on the incident, some of the violence that ensued might have been averted.

71. Regrettably, increased media concentration, the formation of media oligarchies and political ownership of media outlets have resulted in the erosion of media diversity and a focus on entertainment at the expense of news, current affairs and investigative journalism. According to the International Federation of Journalists, two thirds of all independently owned newspapers have disappeared since 1975.[24] At the same time, investments by media houses in training journalists have also declined. Moreover, public media are less able to provide a counterweight to such trends because their online presence is not yet well established, they are subjected to budget cuts and they are losing their audience faster than commercial media, in particular among the younger generation.

72. All these factors have made the work of journalists as information providers increasingly challenging. If the media are to fulfil their primarily role of informing society, which is a crucial prerequisite in combating hate speech, a principled return to ethical journalism is urgently required. Moreover, it is essential that information regarding the media landscape of each country be made available publicly, including information on media ownership and sources of revenue.

[24] Project for Excellence in Journalism, "The state of the news media: overview/introduction", 2009. Available from http://stateofthemedia.org/2009/overview/.

73. Pluralism and diversity of views and opinions in mainstream media is another crucial element in ensuring equal participation in public debate by all communities in multicultural societies and in enabling their narratives and perspectives to become part of national debates. In Argentina, for example, part of the radio frequency spectrum is reserved for community media, so as to ensure access to the media for all. Training sessions and workshops for journalists on issues relating to diversity, including on how to build trust with underrepresented communities, can also significantly improve the quality of reporting and the portrayal of specific communities, such as migrants, who are often presented negatively as a security or economic problem. In addition to diversity in content and perspectives, pluralism in the media also requires diversity in the workforce of media professionals.

74. Lastly, ensuring accountability for what is reported in the media also remains important. For example, the open journalism paradigm promoted by the *Guardian* newspaper in the United Kingdom of Great Britain and Northern Ireland encourages two-way interaction between journalists and the audience online, which has reinserted journalists' willingness to engage in debate and be accountable for what they do into the core of journalism. At the very minimum, media outlets and journalists should adopt voluntary ethical codes and standards that do not allow hate speech and promote high standards of professional journalism, in addition to establishing independent and self-regulatory bodies to elevate standards of journalism and to ensure the accountability of all media professionals. Self-regulatory bodies should be seen not only as an exercise in policing and dispute resolution, but also as an opportunity to involve society at large in debates about the role and contribution of the media, to monitor the state of the media, to advocate professional journalism and to promote media literacy. Such bodies can also play a proactive and exemplary role in setting and reinforcing ethical standards for online content and the social media.

V. Conclusions and recommendations

A. Conclusions

75. **There has been a worrying increase in the number of expressions of hate, incitement to violence and discrimination. Such expressions have often been compounded by politicians and the mass media, while the Internet has also facilitated the multiplication and visibility of hate speech in recent years. These trends are of concern, given that every individual human being is entitled to the same dignity and rights, including the right not to be discriminated against, regardless of national origin, social, racial, ethnic or religious background, disability, gender, sexuality or any other grounds. The promotion and protection of the right to freedom of expression must, however, go hand in hand with efforts to combat intolerance, discrimination and incitement to hatred. While the right to freedom of expression can and should be restricted in extreme cases, such as incitement to genocide and incitement to hatred in accordance with international norms and principles, the right to freedom of expression contributes to exposing harms caused by prejudice, combating negative stereotypes, offering alternative views and counterpoints and creating an atmosphere of respect and understanding between peoples and communities around the world.**

76. Accordingly, laws to combat hate speech must be carefully construed and applied by the judiciary not to excessively curtail legitimate types of expression. At the same time, while laws are certainly necessary and an important component in addressing hate speech, they should be complemented by a broad set of policy measures to bring about genuine changes in mindsets, perception and discourse. Such a multilayered approach, supported by political and social will and commitment to effecting change, not only aids in addressing less severe forms of hate speech, but also supports awareness-raising and prevention.

B. Recommendations

1. Ensuring compliance of domestic laws with international standards

77. The Special Rapporteur urges States to conduct constitutional and legal reviews to ensure that domestic law on hate speech complies with the three-part test stipulated in article 19 (3) of the International Covenant on Civil and Political Rights, namely that: the restriction must be provided by law, which is clear and accessible to everyone; it must be proven as necessary and legitimate to protect the rights or reputation of others; national security or public order, public health or morals; and it must be proven as the least restrictive and proportionate means to achieve the purported aim. Any breach of those principles should be subject to review by an independent court or tribunal.

78. Given that blasphemy laws do not comply with the above-mentioned criteria, the Special Rapporteur urges States to repeal them and to replace them with laws protecting individuals' right to freedom of religion or belief in accordance with international human rights standards. In addition, any law that provides for disproportionate sanctions for the expression of opinions, such as the death penalty, should be repealed immediately. Similarly, the Special Rapporteur calls upon States to repeal laws that prohibit discussion of historic events. Just as religion, history should always be open to discussion and debate.

79. To prevent any abusive use of hate speech laws, the Special Rapporteur recommends that only serious and extreme instances of incitement to hatred be prohibited as criminal offences. The Special Rapporteur thus calls upon States to establish high and robust thresholds, including the following elements: severity, intent, content, extent, likelihood or probability of harm occurring, imminence and context. Such examination must be performed on an ad hoc basis, taking context into consideration.

80. For other types of hate speech that do not meet the threshold of advocacy of national, racial or religious hatred constituting incitement to discrimination, hostility or violence, the Special Rapporteur recommends that States adopt civil laws, with the application of diverse procedural and substantive remedies, such as restoring reputation, preventing recurrence and providing financial compensation. Indeed, with regard to speech that raises concern in terms of civility and tolerance for others, rather than lowering the threshold for incitement to hatred, responses to discrimination need to be strengthened, including by enhancing the enjoyment of the rights of ethnic, religious or linguistic minorities (article 27 of the International Covenant on Civil and Political Rights) and adopting policies and effective measures to eliminate

racial discrimination (articles 2 and 5 of the International Convention on the Elimination of All Forms of Racial Discrimination).

81. **When hate is expressed by politicians and public authorities, additional sanctions should be imposed, as recognized in article 4 (c) of the Convention. Such sanctions could include those of a disciplinary nature, such as removal from office, in addition to effective remedies for victims.**

82. **Training should be offered to the judiciary to ensure a clear and consistent understanding of the forms and thresholds of hate speech under international law. In addition, continuing education opportunities for legal professionals and law enforcement officials in relation to relevant national and international provisions, including thresholds for incitement, should be made widely available.**

83. **To help to provide further guidance to States, the Special Rapporteur recommends that the international human rights mechanisms renew their engagement with States on the issue of hate speech, including ratification of the International Covenant on Civil and Political Rights and the International Convention on the Elimination of All Forms of Racial Discrimination and review of any reservations relating to incitement to hatred. Non-State actors should also be involved. In addition, the Human Rights Committee could consider adopting a general comment on article 20 of the Covenant. The Human Rights Committee and the Committee on the Elimination of Racial Discrimination could also discuss the relationship between article 20 of the Covenant and article 4 of the Convention.**

2. Implementation of non-legal measures

84. **The Special Rapporteur calls upon all States to raise awareness of human rights among the population at large, using, for example, the school education system and strong public information campaigns by public authorities or others.**

85. **The Special Rapporteur encourages States and religious and community leaders to actively promote tolerance and understanding towards others and to support open debates and exchange of ideas in which everyone can participate on an equal footing without fear that only an established authority should have the right to speak. At the same time, public officials should systematically denounce and condemn hate speech publicly and more frequently than is currently the case.**

86. **The Special Rapporteur appeals to States, civil society organizations and the media to proactively facilitate the counter-speech of individuals and groups who are systematically targeted by hate speech, including through the Internet. For example, the media could ensure that such groups have a right to reply, while States could establish comprehensive strategies of interaction to foster tolerance, such as platforms of intercultural and interreligious dialogue from the local to the international levels.**

87. **With regard to the dissemination of hate speech online, States should request the removal of content only through a court order and intermediaries should never be held liable for content of which they are not the authors. The**

right of individuals to express themselves anonymously online must also be fully guaranteed.

88. **The Special Rapporteur recommends that States, academic institutions and civil society organizations collaborate in establishing a system to regularly gather and analyse relevant data regarding patterns of hate speech to aid policy formulation and evaluation and to establish early warning mechanisms.**

89. **The Special Rapporteur urges States to promote pluralism and diversity of views and opinions in the media by encouraging diversity of ownership of media and of sources of information, including through transparent licensing systems and effective regulations to prevent undue concentration of media ownership in the private sector.**

90. **The Special Rapporteur also calls upon media professionals to abide by high ethical and professional standards of journalism to fulfil their role of informing society with accurate facts. He therefore encourages media professionals and media outlets to adopt and adhere to voluntary codes of ethics and professionalism and to establish self-regulatory bodies.**